

SENATE BILL NO. 107

INTRODUCED BY E. FRANKLIN

BY REQUEST OF THE LEGISLATIVE FINANCE COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE USE OF TWO-WAY ELECTRONIC AUDIO-VIDEO COMMUNICATION IN MENTAL ILLNESS PROCEEDINGS AT THE DISCRETION OF THE COURT; PROVIDING FOR COSTS; AND AMENDING SECTION 53-21-132, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Use of two-way electronic audio-video communication. (1) For

purposes of this chapter, a hearing that is conducted by the use of two-way electronic audio-video communication, allowing all of the participants to be observed and heard by all present, is considered to be a hearing in open court.

(2) Whenever the law requires that a respondent or patient in any of the hearings provided for in subsection (3) be present before a court, this requirement may, in the discretion of the court, be satisfied either by the respondent's or patient's physical appearance before the court or by two-way electronic audio-video communication. The audio-video communication must operate so that the respondent or patient, AND THE RESPONDENT'S OR PATIENT'S COUNSEL, and the judge can see each other simultaneously and converse with each other, so that the respondent or patient and the respondent's or patient's counsel can communicate privately, and so that the respondent or patient and counsel are both ~~physically~~ present during the two-way electronic audio-video communication. A respondent or patient may request that counsel from the board of visitors be present, FOR CONSULTING PURPOSES ONLY, if the respondent or patient is located at the state hospital.

(3) At the discretion of the court, the following hearings may be conducted through two-way electronic audio-video communication:

- (a) the initial hearing provided for in 53-21-122;
- (b) the detention hearing provided for in 53-21-124;
- (c) the trial or hearing on a petition provided for in 53-21-126;
- (d) a hearing on posttrial disposition as provided for in 53-21-127;

(e) a hearing on the extension of a commitment period as provided for in 53-21-128;

(f) a hearing on rehospitalization of a person conditionally released from an inpatient treatment facility as provided for in 53-21-197;

(g) a hearing on an extension of the conditions of release as provided for in 53-21-198.

(4) This section does not abrogate a person's rights under 53-21-115, 53-21-116, or 53-21-117.

A respondent or patient, the respondent's or patient's counsel, and a friend of the respondent or patient, if any, must be informed of these rights prior to a hearing by two-way electronic audio-video communication in lieu of a hearing in person. A respondent or patient or the respondent's or patient's counsel and a friend of the respondent or patient, acting together, may waive any of the rights, as provided under 53-21-119.

(5) If a respondent or patient, the respondent's or patient's counsel, or the professional person object to two-way electronic audio-video communication in lieu of a hearing in person, the court ~~may hold a hearing to determine what is in the best interest of the respondent or patient.~~ MAY NOT ALLOW A TWO-WAY ELECTRONIC AUDIO-VIDEO COMMUNICATION.

Section 2. Section 53-21-132, MCA, is amended to read:

"53-21-132. Cost of examination and commitment. (1) The cost of precommitment examination, detention, treatment, and taking a person who is suffering from a mental disorder and who requires commitment to a mental health facility must be paid by the county in which the person resides at the time that the person is committed. The sheriff must be allowed the actual expenses incurred in taking a committed person to the facility, as provided by 7-32-2144.

(2) The county of residence shall also pay all precommitment expenses, including transportation to a mental health facility, incurred in connection with the detention, examination, and precommitment custody of the respondent. However, the county of residence is not required to pay costs of treatment and custody of the respondent after the respondent is committed pursuant to this part. Precommitment costs related to the use of two-way electronic audio-video communication in the county of commitment must be paid by the county in which the person resides at the time that the person is committed. The costs of the use of two-way electronic audio-video communication from the state hospital for a patient who is under a voluntary or involuntary commitment to the state hospital must be paid by the state. The fact that a person is examined, hospitalized, or receives medical, psychological, or other mental health

1 treatment pursuant to this part does not relieve a third party from a contractual obligation to pay for the
2 cost of the examination, hospitalization, or treatment.

3 (3) The adult respondent or the parent or guardian of a minor shall pay the cost of treatment and
4 custody ordered pursuant to 53-21-127, except to the extent that the adult or minor is eligible for public
5 mental health program funds.

6 (4) A community service provider that is a private, nonpublic provider may not be required to treat
7 or treat without compensation a person who has been committed."

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9 NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an
10 integral part of Title 53, chapter 21, part 1, and the provisions of Title 53, chapter 21, part 1, apply to
11 [section 1].

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